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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FIVE

**THE PEOPLE,**

**Plaintiff and Respondent,**

**v.**

**LUIS GERALDO RODRIGUEZ,**

**Defendant and Appellant.**

**A144910**

**(Mendocino County  
Super. Ct. No. SCUKCR1478786)**

Law enforcement officers searched appellant Luis Geraldo Rodriguez's residence pursuant to a search warrant and found, among other things, methamphetamine. The trial court denied Rodriguez's motion to unseal confidential portions of the search warrant affidavit and to quash and traverse the search warrant. Following a bench trial, the court convicted Rodriguez of three felonies, including possession of methamphetamine for sale (Health & Saf. Code, § 11378), and sentenced him to state prison.<sup>1</sup>

Rodriguez appeals. Pursuant to *People v. Hobbs* (1994) 7 Cal.4th 948 (*Hobbs*), Rodriguez asks this court to conduct an in camera review of the sealed portion of the search warrant affidavit and in camera proceedings to determine whether the trial court erroneously denied his motion to unseal the affidavit and to quash and traverse the search warrant. We have reviewed the sealed affidavit in support of the search warrant and the transcript of the in camera hearing held pursuant to *Hobbs*. We affirm.

<sup>1</sup> Unless noted, all further statutory references are to the Health and Safety Code. Law enforcement officers executed warrants at three separate locations. We omit references to the other search warrants.

## FACTUAL AND PROCEDURAL BACKGROUND

In September 2014, a magistrate issued a search warrant authorizing a search of a residence at 1376 South State Street in Ukiah. A magistrate sealed a portion of the affidavit in support of the search warrant (Exhibit A). Law enforcement officers executed the search warrant at 1376 South State Street, where Rodriguez resided. They found 50.7 grams of methamphetamine, a digital scale, drug packaging items, a firearm, and ammunition. The People charged Rodriguez with several felonies, including possession of methamphetamine for sale (§ 11378) and alleged sentencing enhancements. Rodriguez moved to unseal the confidential portion of the search warrant affidavit, and to quash and traverse the search warrant. The People opposed the motion.

The court conducted an in camera hearing “to review sealed Exhibit A, part of the affidavit for the search warrant in this matter. And the Court spent some time in that closed proceeding with . . . the affiant, and addressing certain questions to him and reviewing Exhibit A.” At the conclusion of the in camera hearing, the court denied the motion to unseal the search warrant affidavit, concluding “there is sufficient grounds for maintaining [the informant’s] confidentiality . . . [¶] So I am going to find that Exhibit A . . . the sealed part of the search warrant affidavit, can be considered in determining probable cause.” The court also denied Rodriguez’s motion to quash and traverse the search warrant. It explained, “based on the search warrant affidavit and particularly based on the sealed part of the affidavit [ ] there is a strong suspicion of the existence of contraband and that sustains the search of . . . 1376 South State . . . there is probable cause to search [ ] based on the information set forth in the affidavit for search warrant as well as the sealed affidavit in Exhibit A[.]”

Rodriguez waived his right to a jury trial. Following a bench trial, the court found Rodriguez guilty of felony possession of methamphetamine for sale (§ 11378), possession of a firearm by a felon (Pen. Code, § 29800, subd. (a)(1)), and possession of ammunition by a felon (Pen. Code, § 30305, subd. (a)(1)) and found true a sentencing allegation. The court sentenced Rodriguez to state prison.

## DISCUSSION

Rodriguez has asked this court to independently review Exhibit A and the in camera proceedings to determine whether the trial court erred by denying his motion to unseal the confidential portion of the search warrant affidavit and to quash and traverse the search warrant. The People agree independent review is appropriate.

All or part of a search warrant affidavit may be sealed if necessary to protect the identity of an informant who has supplied probable cause for the issuance of a warrant. (*Hobbs, supra*, 7 Cal.4th at p. 971.) Where a defendant moves to traverse or quash a warrant, the trial court is required to conduct an in camera hearing. (*Id.* at p. 972.) The court must determine whether there are sufficient grounds for maintaining the confidentiality of the informant's identity, and whether the extent of the sealing is necessary to protect the informant's identity. (*Ibid.*) Absent a waiver from the prosecutor, the defendant and his counsel may not be present at the hearing. (*Id.* at p. 973.)

If the trial court determines all or part of the search warrant affidavit was properly sealed, it must decide if defendant's motion to traverse has merit, i.e., whether there is a reasonable probability the affidavit includes a false statement made knowingly and intentionally or with reckless disregard of the truth, and whether the false statement is necessary to the finding of probable cause. (*Hobbs, supra*, 7 Cal.4th at p. 974.) If not, the court should so inform the defendant and deny the motion. (*Ibid.*) If the court determines there is a reasonable probability the defendant will prevail on the motion, the prosecutor must be given the option of disclosing the sealed materials, or suffering the entry of an adverse order on the motion to traverse. (*Id.* at pp. 974-975.)

If the defendant has moved to quash the warrant, the trial court must determine whether under the totality of the circumstances "there was 'a fair probability' that contraband or evidence of a crime would be found in the place searched pursuant to the warrant." (*Hobbs, supra*, 7 Cal.4th at p. 975.) If the court determines there was such probable cause, the court should so inform the defendant and deny the motion. If the court determines there is a reasonable probability the defendant will prevail on his

motion, the prosecutor must either disclose the sealed materials to the defense, or suffer the entry of an adverse order on the motion to quash. (*Ibid.*)

At Rodriguez's request, we have reviewed Exhibit A, the sealed portion of the search warrant affidavit, as well as the sealed transcript of the in camera hearing held pursuant to *Hobbs*. We conclude sufficient grounds existed to maintain the confidentiality of the informant's identity, and the extent of the sealing was necessary for that purpose. The trial court did not err by denying Rodriguez's request to unseal the confidential portions of the affidavit. (*People v. Martinez* (2005) 132 Cal.App.4th 233, 241-242.) The court also properly denied Rodriguez's motion to quash and traverse the search warrant. It correctly determined the sealed portion of the affidavit supplied probable cause for the search and was based on the informant's personal knowledge; did not contain any material misrepresentations or omissions; set forth a fair probability contraband would be found at the residence; and did not show that the confidential informant could have given evidence that might have resulted in Rodriguez's exoneration. (*Id.* at p. 242; see also *People v. Luera* (2001) 86 Cal.App.4th 513, 524-525.) "Our independent review of the record and sealed materials shows there is no reasonable possibility [Rodriguez] could prevail on his motion." (*Martinez, supra*, 132 Cal.App.4th at p. 241.)

#### DISPOSITION

The judgment is affirmed.

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Jones, P.J.

We concur:

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Simons, J.

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Needham, J.

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